

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
901 N. 5<sup>th</sup> STREET  
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

In the Matter of  
  
HENRY PARGO  
St. Louis, Missouri  
  
Respondent

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Docket No. TSCA-07-2004-0119

CONSENT AGREEMENT AND FINAL ORDER

Introduction

Prior to the filing of a complaint in this matter, the parties have agreed to the settlement of an administrative cause of action for the assessment of civil penalties under Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), in accordance with the United States Environmental Protection Agency's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits, found at 40 C.F.R. Part 22. Pursuant to 40 C.F.R. § 22.13(b), it is the intent of the parties to simultaneously commence and conclude this proceeding by the issuance of this Consent Agreement and Final Order.

The Complainant, by delegation from the Administrator of the United States Environmental Protection Agency (EPA), is the Chief, Radiation, Asbestos, Lead, and Indoor Programs Branch, EPA, Region 7. The Respondent is Henry Pargo, 13247 Bonroyal Drive, St. Louis, Missouri 63131.

Complainant's Allegations

Complainant has reason to believe that Respondent has violated Section 409 of TSCA, 15 U.S.C. § 2689, by failing to comply with the regulatory requirements of 40 C.F.R. Part 745, Subpart F - Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property ("Disclosure Rule"), which was promulgated pursuant to Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d. Specifically, Complainant alleges:

Count I

1. Henry Pargo ("Respondent") is an individual person.
2. For all periods of time relevant to the violation alleged herein, Respondent owned a residential property located at 3867 Page, St. Louis, Missouri (the "Property").
3. The Property was constructed prior to 1978.
4. The Property is "target housing" as defined by 40 C.F.R. § 745.103.
5. In or around February 2002, Respondent entered into a rental agreement (the "Contract") with Margaret Terry for the lease of Respondent's Property for residential use.
6. As a result of the Contract described in Paragraph 5 above, Respondent became the "lessor," and Margaret Terry became the "lessee," as those terms are defined by 40 C.F.R. § 745.103.
7. Margaret Terry subsequently moved into the Property.
8. Pursuant to 40 C.F.R. § 745.107(a)(1), before the lessee is obligated under any contract to lease target housing, the lessor of target housing must provide the lessee with an EPA-approved lead hazard information pamphlet.
9. Respondent did not provide an EPA-approved lead hazard information pamphlet to Margaret Terry prior to being obligated under the rental Contract described in Paragraph 5 above.

10. Respondent's failure to provide an EPA-approved lead hazard information pamphlet to Margaret Terry prior to being obligated under the rental Contract described in Paragraph 5 above is a violation of 40 C.F.R. § 745.107(a)(1) and Section 409 of TSCA.

#### CONSENT AGREEMENT

1. For the purposes of this proceeding, Respondent admits that Complainant has jurisdiction to bring this action pursuant to the statutory and regulatory provisions cited above, and neither admits nor denies Complainant's factual allegations above.
2. Respondent waives his right to contest Complainant's allegations above, and his right to appeal the Final Order accompanying this Consent Agreement.
3. Respondent and Complainant agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.
4. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of Respondent's knowledge, he is presently in compliance with all requirements of 40 C.F.R. Part 745, Subpart F - Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property ("Disclosure Rule").
5. Although not required by TSCA, or any other federal, state, or local law, in settlement of this matter, Respondent agrees to conduct a lead abatement project on a property located at 3814 Cook in St. Louis, Missouri. The goal of the project is to reduce the possibility of future occupants being exposed to lead-based paint. As part of the work performed on the 3814 Cook property, Respondent shall, at a minimum: install five new vinyl replacement single hung windows, which includes coil wrapping the exterior of the windows and ensuring that the windows do not contain lead as a stabilizing agent. Respondent agrees to obtain prior written approval from EPA if Respondent decides to modify the project in such a manner that the above description of work would not be satisfied. Respondent agrees that the abatement project shall only be performed by professionals certified by the State of Missouri to perform

lead-based paint activities, as that term is defined by 40 C.F.R. § 745.223. Respondent agrees to follow all applicable state and federal laws when performing this abatement project. Respondent agrees that the abatement project shall be completed within one hundred eighty (180) days of the effective date of this Consent Agreement and Final Order. Within twenty-eight (28) days of completion of the abatement project, Respondent agrees to provide EPA with a notarized statement indicating that the abatement project has been completed, along with an accounting of expenses incurred on the project, and a copy of the final lead abatement report prepared by the certified abatement contractor. Respondent agrees to include in the accounting statement a statement certifying that the expenses incurred and listed in the accounting statement are accurate and represent only those expenses for the abatement project. Respondent agrees not to claim this abatement project as a business expense on its federal, state, or local income tax returns and agrees not to depreciate the costs on its tax returns.

6. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of a mitigated civil penalty in the amount of Four Hundred Seventy-Five Dollars (\$475). Furthermore, Respondent consents to the stipulated penalty provision contained in Paragraph 2 of the Final Order.

7. Respondent understands that his failure to timely pay any portion of the penalty stated in Paragraph 6 above, or any stipulated penalties assessed pursuant to Paragraph 2 of the Final Order, may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall accrue thereon at the rate determined by the Secretary of the Treasury (currently two percent (2%) per annum for the period January 1, 2003, through December 31, 2003) on the unpaid balance until such civil penalty and any accrued interest are paid in full. A late payment handling charge of \$15 will be imposed after 30 days and

an additional \$15 will be charge for each subsequent 30-day period. Additionally, as provided by 31 U.S.C. § 3717(e)(2), a six percent (6%) per annum penalty (late charge) may be assessed on any amount not paid within ninety (90) days of the due date.

Final Order

Pursuant to the provisions of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2601 *et seq.*, and based upon the information set forth in the Consent Agreement accompanying this Final Order, IT IS HEREBY ORDERED THAT:

1. Respondent shall undertake or complete the abatement project as set forth in Paragraph 5 of the Consent Agreement.
2. In the event that Respondent fails to undertake or complete the abatement project as set forth in Paragraph 5 of the Consent Agreement, Respondent shall pay a stipulated penalty in the amount of One Thousand Four Hundred Twenty-Five Dollars (\$1,425). Such stipulated penalty shall become immediately due and payable within thirty (30) days of the scheduled completion date of the abatement project, which is set forth in Paragraph 5 of the Consent Agreement.
3. Respondent shall pay a mitigated civil penalty of Four Hundred Seventy-Five Dollars (\$475) to be paid within thirty (30) days of the effective date of the Final Order. Such payment shall identify the Respondent by name and docket number and shall be by certified or cashier's check made payable to the "United States Treasury" and remitted to:

EPA-Region 7  
c/o Mellon Bank  
P.O. Box 360748M  
Pittsburgh, Pennsylvania 15251.

2. A copy of the check must be sent simultaneously to each of the following:

Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region 7  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101; and

Deanna Smith  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

3. Respondent and Complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

**RESPONDENT:**  
HENRY PARGO

Date 1/19/04

By

Henry Pargo  
Henry Pargo

**COMPLAINANT:**  
U.S. ENVIRONMENTAL PROTECTION AGENCY

Date 1/29/04

By

Lynn M. Slugantz  
Lynn M. Slugantz  
Acting Branch Chief  
Radiation, Asbestos, Lead and Indoor Programs Branch

Date 2/4/04

By

Kent Johnson  
Kent Johnson  
Senior Assistant Regional Counsel

**IT IS SO ORDERED.** This Final Order shall become effective immediately.

Date February 5, 2004

Robert L. Patrick  
Robert L. Patrick  
Regional Judicial Officer

IN THE MATTER OF Henry Pargo, Respondent  
Docket No. TSCA-07-2004-0119

CERTIFICATE OF SERVICE

I certify that the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Michael Gieryic  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Henry Pargo  
13247 Bonroyal Drive  
St. Louis, Missouri 63131

Dated: 2/10/04

A handwritten signature in cursive script that reads "Kathy Robinson". The signature is written in dark ink and is positioned above a horizontal line.

Kathy Robinson  
Regional Hearing Clerk